

MINUTES OF REGULAR MEETING HELD JANUARY 20, 2004

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 8:00 P.M.

Roll Call: Giaimis, Van Deursen, Housel, Bertoline, Glaser, McDonald and Doty (Arrived at 9:25 PM) – 7 Present.

Also Present: Alan M. Fisher, Borough Manager
Richard P. Cushing, Esq., Municipal Attorney
Linda L. Hendershot, RMC/CMC, Borough Clerk

Mayor Van Deursen led everyone in the flag salute.

Mayor Van Deursen read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.

PRESENTATION:

Resolution #22-2004 – Mark S. Bond

Once again this Resolution was tabled due to an emergency at the school. If Mr. Bond arrives later on during the meeting the Council will consider this presentation at that time.

COUNCIL APPEARANCE:

Robert Miller, C.M.E., Borough Engineer

Robert Miller, Engineer presented the Council with the Street Survey they had requested of which he summarized in detail. The report rates each street and gives a guide to the costs of these streets over a 5-10-20 year period. It also includes drainage problems in the Borough with over six hundred photos of the condition of the Borough streets. This survey will make an excellent tool for Capital Improvement projects. The sidewalks are also depicted in this report. Grants for projects were discussed and the engineer recommended that the Borough apply for no more than 3 – 4 grants a year, but no more than 5. Some grant work is also available for sidewalk reconstruction.

Mr. Miller also submitted a monthly report that he reviewed with Council. This report will be given to the Council the second meeting of each month.

Councilman Giaimis questioned the status of the Railroad Avenue Park design. Mr. Miller noted that five firms have been chosen for the Borough to receive Requests for Proposals. A discussion period followed at which time the Mayor thanked Mr. Miller for his very informative presentation. Mr. Miller also noted that he prefers coming to the meeting on a regular basis so that he is kept informed of any engineering problems that are brought to the Council’s attention.

Mayor Van Deursen deviated from the order of business to further consider the Kimble Sewer connection.

Kimble Sewer Connection – Douglas Steinhardt, Esq.

Continued discussion on the request made on behalf of the Kimble's and Schaumberg's. Both are now represented by Douglas Steinhardt. Discussion ensued on which route to take to construct this project; a force main or a pumping station. Mr. Steinhardt indicated that he thought the responsibility for the cost of the project had been agreed upon by Council that they would be paying for this project. His clients did not have a problem with paying the money up front if they were going to be reimbursed.

Manager Fisher noted that there has been no evidence or testimony that the Schaumberg's have a similar problem as the Kimble's. Mr. Schaumberg noted that they also have a serious problem and are forced to pump out their cesspool frequently. They would very much like to be hooked into the Borough's sewer system.

Councilman Giaimis noted that the Resolution for connections is capped at \$ 25,000.00. Council has given their word that we would pay for this project.

Councilwoman Bertoline also indicated that we should honor our commitment to these people.

Councilman Housel said he would go along with the recommendation of our engineer in Item #3 for a single pumping station to serve both houses..

Attorney Steinhardt noted that the initial construction costs are the issue that they want covered. His clients are willing to pay for the maintenance costs for this project.

Councilman McDonald reminded everyone that this is a health issue that does affect more than two people. It affects a lot of environmental issues in that area. The pumping station could also be a health issue?

Councilwoman Glaser felt that Council's focus should be on this serious health issue at hand.

Mayor Van Deursen also noted that Council has committed to helping these people. It will be a burden to the community and its taxpayers but the Kimble's have been paying for sewer they didn't have for many years.

Manager Fisher outlined the options in the engineer' report. Attorney Cushing noted that an agreement would have to be entered into working out all the terms of this project. Details also have to be worked out as to who is going to design and construct. It was agreed that a single pumping station could be constructed to service both of these properties.

A motion was made by Giaimis, seconded by McDonald that the Borough design and construct this sewer project following the guidelines of Resolution #58-90 with a cap of \$ 25,000.00 per lot for the costs of this project.

Roll Call: McDonald, Bertoline, Van Deursen, Glaser and Giaimis.
Ayes: 5, Nays: Housel.

Motion carried.

The cost of the project was discussed and how the Borough was going to fund it. It was suggested that a Temporary Emergency Appropriation be considered.

A motion was made by Giaimis, seconded by McDonald that the Manager prepare a Temporary Emergency Appropriation for the funding of this project.

Roll Call: McDonald, Bertoline, Van Deursen, Glaser and Giaimis – Ayes: 5,
Nays: Housel. Motion carried.

Mayor Van Deursen deviated from the order of business in order to hear a presentation regarding a web site for the Borough by Christine Woykowski.

Web Presentation – Christine Woykowski

Christine Woykowski, along with Jeremiah Apgar offered their services to provide a web site for the Borough of Washington at a nominal cost of approximately \$ 320.00 a year. Mrs. Woykowski presented an outline for the Council to see. One of the suggestions was a public forum page. The Attorney cautioned the Council on the liability and security issues as did Councilman McDonald. Council was not in favor of a public forum page. Linking of the agenda and minutes and providing information to the public that would prove helpful did appeal to the Council. They would provide the information but questioned how much involvement or sanctioning this web page would they be comfortable with? It was agreed to form a sub-committee to discuss this issued further. The sub-committee chosen was Councilman McDonald, Councilwoman Bertoline and the Mayor.

Councilman Doty arrived at 9:25 PM and took his seat during this discussion.

Executive Session

It was moved by Housel, seconded by Bertoline that the Council go into **Executive Session** to discuss Real Estate Acquisition and Litigation.

Ayes: 7, Nays: 0.
Motion carried.

It was moved by Giaimis, seconded by Housel that the Council go back into open session at 10:15 PM.

Ayes: 7, Nays: 0.
Motion carried.

Mayor Van Deursen called a short recess at which time Council reconvened at 10:25 PM with everyone present.

MINUTES:

Regular Meeting – December 16th, 2003 and Special Meeting December 29, 2003

Mayor Van Deursen entertained any additions or corrections to the minutes presented from December 16th and December 29th. Some minor corrections were noted in the minutes of December 16th of which the Clerk so noted.

It was therefore moved by Housel, seconded by McDonald that the minutes of December 16th and December 29th be accepted as corrected.

Roll call; McDonald, Bertoline, Doty, Van Deursen, Giaimis, Glaser and Housel.

Ayes: 7, Nays: 0.
Motion carried.

COMMUNICATIONS:

The following communications were entered into the Record:

- 1) NJ State League RE: Proposed Stormwater Regulations;
- 2) NJ State League RE: TDR Bills Stall-New aw Limits Authority Over Flag Display-League Abandoned Properties Bill Becomes Law;

- 3) NJ State league RE: NLC Resolution Seeks Patriot Act Rights Protections;
- 4) NJ State League RE: Pre-Entry Fitness Standards;
- 5) NJ Stat League RE: Hand Held Cell Phone Ban;
- 6) NJ State League RE: Recent NJ Appellate Division Cases of Interest to Municipalities; and
- 7) Washington Borough Municipal Court Re: Community Dispute Resolution Program

Mayor Van Deursen entertained a motion to acknowledge, receive and file the communications.

It was moved by Giaimis, seconded by Glaser that the communications numbered #1 thru #7 be acknowledged, received and filed.

Ayes: 7, Nays: 0.
Motion carried.

AUDIENCE:

Mayor Van Deursen entertained remarks from the audience on items that were not part of the meeting agenda.

Hearing no remarks, it was moved by Glaser, seconded by Housel that the audience portion be closed.

Ayes: 7, Nays: 0.
Motion carried.

ORDINANCES:

Ordinance #2-2004 – To Regulate Certain Public Contracting (First Reading)

An ordinance regulating certain public contracting was introduced by Councilwoman Glaser.

It was further moved by Glaser, seconded by Housel that the Clerk read Ordinance #2-2004 by title only.

Roll Call: Housel, Giaimis, Glaser, Van Deursen and Doty – Ayes: 5,
Bertoline and McDonald – Nays: 2.
Motion carried.

The Clerk read Ordinance #2-2004 entitled, “AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF WASHINGTON TO REGULATE CERTAIN PUBLIC CONTRACTING.”

Discussion:

Councilwoman Bertoline asked the question as to who asked for this ordinance to be placed on the agenda? Manager Fisher acknowledged that Councilman Housel had approached him to prepare this ordinance for Council consideration. Councilwoman Bertoline asked who drafted this ordinance? Manager Fisher noted that he had prepared the ordinance with modifications to it? Councilwoman Bertoline noted that the Council has been awaiting information on nepotism that was brought up to Council during which time Councilman Bond was still a member of the governing body. Councilwoman Bertoline also questioned the constitutionality of such an ordinance. She also referred to the minutes of the December 16th meeting wherein the majority of Council suggested waiting until they saw what the State did with this issue on a state level.

Councilman Giaimis questioned the Manager's authority to write ordinances? Isn't it the policy that the Attorney write the ordinances? He also felt that it was standard policy that Council authorize the preparation of the ordinances for Council consideration.

Councilwoman Bertoline questioned whose agenda this issue was on pay for play?

Councilman Housel noted that he felt that it is good government to consider this ordinance. It makes a statement that we are not going to tolerate back door politics or favoritism on campaign contributions. Council can hold their heads high if they adopt this ordinance. It is a positive thing for the Borough. Councilwoman Bertoline questioned whether there has been a problem in the past. Councilman Housel noted that the Borough's present auditor was known to have contributed to the Republican County Committee.

Mayor Van Deursen noted that the end goal here is to disallow a person who is considering a professional position with the Borough from politically contributing to anyone running for public office.

Councilwoman Glaser questioned whether Council could take it as far as the County. She did note that the State would not be pursuing any legislation along these lines for the present.

Councilman McDonald felt that this ordinance would limit the pool of professionals the Borough could consider for their professional positions.

Councilman Giaimis agreed with Councilman McDonald. He felt that the Manager overstepped the political boundaries in getting involved in this issue.

Mr. Higgins, who was present in the audience, noted that campaign contributions never came into play when a new auditor was chosen for the Borough. He took exception to Councilman Housel's allegations.

Councilwoman Glaser suggested that the ordinance just cover Borough and not the County? Manager Fisher noted that you have to include the County prohibitions in order to have some teeth in the ordinance. Taking the County out would defeat the purpose of the ordinance.

Extensive Council discussion followed at which time a motion was made by Housel to approve Ordinance #2-2004 on first reading. Mayor Van Deursen called for a second to the motion. Hearing none, the ordinance died for lack of a second to the motion.

Ordinance #3-2004 – Amending, Revising & Supplementing Section 94-75 B (4) of the Code of the Borough (First Reading)

Mayor Van Deursen excused herself from this ordinance as she lives in the area that affects the implementation of this ordinance. Deputy Mayor Glaser chaired this portion of the meeting.

Councilman Housel introduced this proposed amendment to the Zoning Ordinance.

It was moved by Housel, seconded by McDonald that the Clerk read Ordinance #3-2004 by title only.

Roll Call: McDonald, Doty, Glaser and Housel – Ayes: 5,
Bertoline and Giaimis – Nays: 2.

Motion carried.

The Clerk read Ordinance #3-2004 entitled, “AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING SECTION 94-75 B (4) OF THE CODE OF THE BOROUGH OF WASHINGTON.”

Council Discussion:

Councilman Giaimis noted that in the interest of good planning he was voting against this ordinance.

Councilwoman Bertoline stated that only one person came before the Board of Adjustment for a variance for a rear yard setback for a deck. She felt that Council should let the system work the way it was meant to be. It is not a good precedent to set. She did not agree in changing the zoning for a one particular area of the Borough.

Mr. Alex Buoye, 43 Lambert Street was recognized by the chair. He reported that he had spoke to Larry Hurley, Chairman of the Zoning Board. The Zoning Board was disappointed that the ordinance had not passed. It would have been beneficial to the people who live in Washington Meadows.

Hearing no further discussion, it was moved by McDonald, seconded by Housel that Ordinance #3-2004 be approved on first reading.

Roll Call: Housel, Glaser, McDonald and Doty – Ayes: 4,
Giaimis and Bertoline – Nays: 2.

Motion carried.

It was further moved by McDonald, seconded by Housel that Ordinance #3-2004 be published in the Star Gazette on January 29, 2004 and that the public hearing be scheduled for February 17, 2004.

Roll Call: Bertoline, McDonald, Glaser, Housel, Giaimis and Doty.

Ayes; 6, Nays: 0.
Motion carried.

Mayor Van Deursen assumed her Chair as Mayor.

Ordinance #4-2004 – Amending Chapter 94 – Development Regulations
Ordinance (First Reading)

An ordinance amending Chapter 94 was introduced by Councilman Housel.

It was further moved by Housel, seconded by McDonald that the Clerk read Ordinance #4-2004 by title only.

Roll Call: Doty, Bertoline, Giaimis, Housel, Glaser, McDonald and
Van Deursen.

Ayes: 7, Nays: 0.
Motion carried.

The Clerk read Ordinance #4-2004 entitled, "AN ORDINANCE TO AMEND CHAPTER 94 OF THE CODE OF THE BOROUGH OF WASHINGTON KNOWN AS THE BOROUGH OF WASHINGTON DEVELOPMENT REGULATIONS DEVELOPMENT ORDINANCE.

Council Discussion: None.

It was moved by McDonald, seconded by Bertoline that Ordinance #4-2004 be approved on first reading.

Roll Call: Housel, Glaser, Giaimis, Van Deursen, McDonald, Bertoline and Doty.

Ayes: 7, Nays: 0.
Motion carried.

It was further moved by McDonald, seconded by Housel that Ordinance #4-2004 be published January 29, 2004 and that the public hearing be scheduled for February 17, 2004.

Roll Call: Doty, Bertoline, McDonald, Van Deursen Giaimis, Glaser and Housel.

Ayes: 7, Nays: 0.
Motion carried.

REPORTS:

It was moved by Housel, seconded by Giaimis, that the Trial Balance, Police (3), Building Permits, Collector-Treasurer's and Road Department reports be accepted as presented and filed.

Ayes: 7, Nays: 0.
Motion carried.

VOUCHERS:

Mayor Van Deursen entertained questions or additions to the vouchers and claims list.

There being no questions, it was moved by Housel, seconded by Giaimis that the vouchers and claims be approved in the amount of \$ 684,775.78 as reflected in the debit/credit memorandum on file in the Collector's- Treasurer's office.

Roll Call: Housel, Glaser, Giaimis, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 7, Nays: 0.
Motion carried.

OLD BUSINESS:

Kimble Sewer Connection

Already taken care of.

NEW BUSINESS:

(See Next Page)

Discussion of Review Process for Risk Manager & Consulting Engineer

Council discussed how they were going to handle the review process with the hiring of the position of Risk Manager and Consulting Engineer. It was agreed that they would review them individually and categorize them. The top two choices will be interviewed for the engineering position and the top three choices will be interviewed for the Risk Manager. The Manager will place the proposals and tabulation in the copy room for Council to come in at their leisure.

Resolution #29-2004 – Refunding of Overpayment of the Borough’s Sewer Service Charge

The following Resolution was moved by Giaimis, seconded by McDonald and adopted:

RESOLUTION #29-2004

**A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH’S
SEWER SERVICE CHARGE**

WHEREAS, according to the Treasurer’s records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>AMOUNT TO BE REFUNDED</u>
8/1	Kennedy, Ridge & Jane 111 West Warren Street	\$ 43.00

The former owner made an overpayment during the closing procedures on the above property location. A refund of \$ 43.00 should be mailed to:

Ridge Kennedy
28 Yale Terrace
West Oranage, NJ 07053

WHEREAS, the Borough Treasurer’s office has received a written request that the above amount be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to refund the above overpayment amount.

Roll Call: Housel, Giaimis, Glaser, Van Deursen, Bertoline, Doty and McDonald.

Ayes: 7, Nays: 0.
Motion carried.

Resolution #30-2004 – Refunding of Overpayment of the Borough’s Sewer Service Charge

The following Resolution was moved by Giaimis, seconded by McDonald and adopted:

RESOLUTION #30-2004

**A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH'S
SEWER SERVICE CHARGE**

WHEREAS, according to the Treasurer's records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>AMOUNT TO BE REFUNDED</u>
5/3	Guerra, Yolanda 129 North Prospect St.	\$ 1,352.46

WHEREAS, the owners sent their mortgage payment to U.S. Filter in error. The check was written for \$ 1,352.46. U.S. Filter posted the mortgage payment, leaving a large credit to the owner's sewer account. Refund of the overpayment should be mailed to

Yolanda Guerra
129 North Prospect St.
Washington, NJ 07882

WHEREAS, the Borough Treasurer's office has received a written request that the above amount be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to refund the above overpayment amount.

Roll Call: Housel, Doty, Bertoline, McDonald, Van Deursen, Glaser and Giaimis.

Ayes: 7, Nays: 0.
Motion carried.

Resolution #31-2004 – To Void & Replace a Check

The following Resolution was moved by Giaimis, seconded by McDonald and adopted:

RESOLUTION #31-2004

A RESOLUTION TO VOID AND REPLACE A CHECK

WHEREAS, Check #142439 was written 5/7-03 on Washington Borough's Operating Fund #8102360230 in the amount of \$ 15.00 and made payable to Darian Pinkman, 23 Clinton Avenue, Port Murray, NJ 07865; and

WHEREAS, the Treasurer's office was made aware that this check was lost, and a stop payment was placed on it.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington that the Treasurer be authorized to void and replace Chec#04243

Roll Call: Giaimis, Housel, Doty, McDonald, Glaser, Van Deursen and McDonald. Ayes: 7, Nays: 0. Motion carried.

Resolution #32-2004 – Endorsing an Application for NJ DOT – Transportation Enhancement Program Funds

The following Resolution was moved by Giaimis, seconded by McDonald and adopted:

RESOLUTION #32-2004

RESOLUTION ENDORSING THE BOROUGH OF WASHINGTON'S APPLICATION FOR NEW JERSEY DEPARTMENT OF TRANSPORTATION – TRANSPORTATION ENHANCEMENT (TE)PROGRAM FUNDS

WHEREAS, the Borough of Washington is preparing an application to the State of New Jersey Department of Transportation TE program; and

WHEREAS, the Borough of Washington is proposing streetscape improvements on Washington Avenue to increase pedestrian use and safety, promote downtown revitalization, improve viability for commercial properties in the business district and visually enhance a vital thoroughfare within the Borough; and

WHEREAS, an award from the TE program will enhance the economy of the Borough of Washington and improve the overall quality of life for residents and those who travel through the area; and

WHEREAS, the Borough of Washington is committed to continual ownership and maintenance of the project for a minimum of twenty years and throughout its useful life; and

WHEREAS, in order to enhance the project's construction readiness, the Borough of Washington will be responsible for design and engineering fees associated with the project.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of Washington that the Borough fully supports and endorses the project and the above mentioned grant application to the State of New Jersey Department of Transportation TE Program.

Roll Call: McDonald, Bertoline, Doty, Van Deursen, Giaimis, Housel and Glaser.

Ayes: 7, Nays: 0.
Motion carried.

Warren County Mosquito Extermination Commission – Application for Mosquito Control

It was moved by McDonald, seconded by Giaimis that the Mayor be authorized to execute the agreement with the Warren County Extermination Commission for spraying this year.

Ayes: 7, Nays: 0.
Motion carried.

To Authorize the Execution of a License Agreement Re: Pristine Properties

Attorney Cushing explained the purpose of this License Agreement. Councilwoman Bertoline had questions with regard to this agreement and questioned why the Borough did not sell this portion of property to the resident where it encroaches on our property. Attorney Cushing explained the due process and noted that legally this was the proper channel to follow.

It was therefore moved by McDonald seconded by Housel that the Mayor and Clerk be authorized to execute this License Agreement regarding Pristine Properties.

Roll Call: Housel, Glaser, Giaimis, Van Deursen, Bertoline, Doty and McDonald.

Ayes: 7, Nays: 0.
Motion carried.

Raffle Application(s) – St. Joseph’s Church

Raffle applications were received from St. Joseph’s Church for their Annual Power Ball Sweepstakes. The applications were in order and fees paid.

It was moved by Housel, seconded by McDonald that the Clerk be authorized to issue these licenses to St. Joseph’s Church.

Roll call: Giaimis, Housel, Glaser, Doty and McDonald – Ayes: 5,
Nays: 0. – Bertoline and Van Deursen – Abstained.

Motion carried.

COUNCIL REMARKS:

Mayor Van Deursen entertained remarks from the Council.

Councilman Giaimis asked whether the budget sessions chosen are still going to be held as scheduled? Manager Fisher indicated that they would be held.

Councilman Housel had no remarks.

Councilwoman Glaser thanked the Mayor and Council for their expressions of sympathy in the passing of her husband’s father.

Councilman McDonald had no remarks.

Councilwoman Bertoline questioned what the status of the North Prospect Street project was with respect to the bonding company? Attorney Cushing will write to the bonding company to obtain an up-to-date status report.

Councilwoman Bertoline questioned why a change in the auditor was being contemplated? Councilwoman Glaser noted that it is always prudent business practice to rotate auditors every so many years. Our present auditor is beginning their 5th years preparing the Borough audit.

Councilman Bertoline noted, that in reviewing the bills, she finds that the Borough is engaging an accounting firm to do the Borough’s General Ledger. Under the CFO job requirements the responsible person holding this position should know how to do it. The Borough is paying twice and it is her opinion that this is not a responsible expenditure. It was pointed out that this issue should be discussed in Executive Session.

Councilman Doty has been working with the residents on N. Prospect Street and would like the Borough to pursue getting this project completed with the bonding company.

Mayor Van Deursen had some issues with the shoveling of her sidewalks and felt given the extreme hard, cold winter that some leniency be given to people for shoveling sidewalks.

Executive Session

It was moved by Housel, seconded by Glaser that the Council go into Executive Session to discuss litigation and personnel.

Ayes: 7, Nays: 0.
Motion carried.

It was moved by Glaser, seconded by Bond that Council go out of Executive Session at 11:40 PM.

Ayes: 7, Nays: 0.
Motion carried.

Hearing no further business to come before the Council, it was moved by Glaser, seconded by Housel that the meeting be adjourned at 11:40 PM.

Ayes: 7, Nays: 0.
Motion carried.

Marianne Van Deursen, Mayor

Linda L. Hendershot, RMC/CMC
Borough Clerk